



RECREATION RESIDENCES

Information on Revocable Living Trusts



In 1995, the Chief of USDA-Forest Service issued a letter stating that “recreation residence permits can be held by a living trust. However, an individual must be named as the trust representative and holder of the term permit [trustee]. This individual would agree to act on behalf of the trust and to be responsible for the conditions imposed on the trust under the term permit’s provisions. This [person must be] specifically named in the trust as having the responsibility of the recreation residence.”

A recreation residence special use permit that is issued for a cabin owned by a revocable living trust (sometimes referred to as a family trust) will contain the following clauses:

- **LIVING TRUST:** The Trustee(s) of this Living Trust (the Permit Holder) shall notify the Authorized Forest Service Officer when the last Grantor (the original owner who granted the ownership of the cabin and associated improvements to the Trust) dies. At that time the Living Trust becomes irrevocable. The Forest Service may allow an interim period of up to approximately one year after the last Grantor dies for the assets to be distributed and for the beneficiaries of the Trust, who are now the owners of the cabin, to request that a new permit be issued, either to an individual, a married couple or to the Trustee(s) of a new Living Trust if the new owners grant the ownership of the cabin to a Living Trust.
- **CHANGE IN ADDRESS, OWNERSHIP OF THE RECREATION RESIDENCE, OR THE TRUSTEE.** The holder or the holder's executor or personal representative shall immediately notify the authorized officer of a change in the holder's permanent address or a change in the ownership of the recreation residence. If the permit is issued to a trust, the trustee shall immediately notify the authorized officer of a change in the trustee or revocation or termination of the trust.
- If this permit is issued to a trust and there is a conflict between any of the terms and conditions of [the] permit and the terms of the trust documents or state law applicable to the trust, the terms and conditions of this permit shall control.

National direction:

- Permits are issued in the name of one individual, to a married couple, or to the trustee (individual or married couple) for a revocable family-living trust. The holder of the Permit must be able to demonstrate ownership of the authorized improvements. When the holder is a designated representative of a revocable family-living trust, the holder must be able to demonstrate ownership of the authorized improvements in the name of the trust that they are representing. Permits will not be issued to a commercial enterprise, non-profit organization, business association, corporation, partnership or other similar enterprises.

When the Custer Gallatin National Forest receives a request for a recreation residence permit to be issued to the trustee of a revocable living-family trust, the trust must be consistent with the following conditions:

1. The trust is a living, revocable trust.
2. The LOT LOCATION is correct.
3. The CHAIN OF OWNERSHIP is accurate, i.e. the previous owner(s) who transferred their ownership of the recreation residence cabin and associated improvements (that are not owned by the Forest Service (FS), such as sheds, garages, septic drain fields and underground pipes, etc) to the trust are

now recognized and referred to as GRANTOR(S) in the trust. The Forest will still require a Revocation/Request form filled out by the grantors and the trustee, with all signatures notarized.

4. The trust shows specifically that it OWNS THE CABIN and associated non-forest service improvements and does not imply or indicate that it owns any National Forest land on which the *personal property* (the cabin, etc), is located.
5. A TRUSTEE(S) is clearly identified. The trustee(s) can be an individual, or a married couple but cannot be two siblings, two cousins, a parent and child, etc. Only one trustee (as an individual) or co-trustees (as a married couple) can represent the trust at a time.
6. It recognizes that it is the TRUSTEE(S) who will request, on behalf of the trust, that a new FS special use permit be issued to he/she/them and thus will be considered RESPONSIBLE FOR COMPLYING with the terms and conditions of the special use permit.
7. (not mandatory but preferable): ALTERNATE TRUSTEE(S) are identified in order of succession, in case the trustee is incapacitated or decides he/she/they no longer want that duty. As long as alternate trustees are listed, a change of trustee(s) would not require a modification to the trust or constitute a change of ownership of the personal property. However, the FS must be notified, by e-mail or in writing, by the outgoing or incoming trustee and would need to prepare an amendment to the special use permit to recognize the change in trustee(s).
8. If the grantor makes any salient CHANGES to the trust, that are pertinent to the recreation residence, the trustee shall provide an updated copy of the trust to the authorized Forest Service officer for review prior to those changes being finalized by the grantor.
9. The trust does not indicate, imply or state that it "owns" the permit or has the authority to "transfer" the permit
10. That the trust lists BENEFICIARIES.
11. That the trust recognizes that the SPECIAL USE PERMIT CONTROLS and takes precedence over the specifications of the trust, in regard to the use, fee payments, maintenance, management of the recreation residence cabin and the National Forest land and resources.